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July 17, 2008

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
10th Street and Constitution Avenue, NW
Washington, DC 20551

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G. Street, NW
Washington, DC 20552

Re: Regulation Z; Docket No. R-1286; (Federal Reserve Board)

Unfair or Deceptive Acts or Practices; Docket No. R-1314 (Federal Reserve Board); OTS-2008-0004 (Office of Thrift Supervision); RIN 3133-AD47 (National Credit Union Administration)

Dear Sir or Madam:

Please accept this letter on behalf of BancorpSouth's Credit Card Center. BancorpSouth has its own credit card portfolio, not contracted with or managed by another institution. The issues raised are therefore important to BancorpSouth. I manage the Credit Card Division at the company.

This letter is also to supplement the letter of our General Counsel, Pat Caldwell, who is likewise commenting from a legal perspective on inappropriate use of UDAP to address the current concerns. At BancorpSouth, we stand ready to abide by more "bright line" regulatory requirements, hopefully under Reg Z and not UDAP; however, if invoked, a substantial lead time to implement any changes may be necessary.

The following represent specific comments linked to the Reg Z and UDAP proposal (as the latter applies to credit cards).

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Promotional Plans/Introductory Rates

If we are restricted on how we allocate payments to that of the lowest APR balance and risk that being characterized as "unfair acts or practices," we simply will first reconsider whether we recompute the amount of the discount that can be offered or not offer one at all. At best, the discounted rates we offer will not be as great, and it is hard to see how this will benefit our customers, or why such a practice would be viewed as unfair or deceptive, when in the "Schumer box," in our marketing, and as otherwise required by Reg Z, all the terms and conditions of discounted rates are explained.

Our ability to underwrite certain customer risks, and offer lower rates for certain balances, such as balances resulting from transfers, balances resulting from certain types of purchases, etc. (because we can estimate the length of time those lower rates will apply), will likewise either be offered at higher rates or not available at all. The consequence will therefore be obvious: diminished customer options, more limited options, or no promotional products at all.

There was a time at BancorpSouth when our credit cards were "one size fits all." Rates were the same; limits were the same; and features were the same, regardless of your risk profile, other customer relationships with us, or any marketing we may have done to attract new customers. Several options exist today; however, if burdened with UDAP scrutiny as opposed to more "bright line" Reg Z disclosures, standards, and rules, our portfolio features will be headed backwards.

Beyond lowest APR allocation, if broader precepts of unfair and deceptive trade practices end up governing BancorpSouth's marketing, use, and credit card product mixes that currently may offer various forms of introductory rates or other benefits, an unintended consequence could be that discounted offers will simply no longer be available. It will not be worth addressing any related issues, or more importantly the risk associated with being labeled, reputationally or otherwise, as engaging in some form of unfair or deceptive practice. We must also be concerned with resulting, even though unfounded, litigation risk, class action or otherwise.

Simply put, we would be out of the introductory rate business, and even if just for the short time that an introductory rate may be in force, our customers will lose the benefit of the lower rate. They would also lose the benefit of a "blended rate over time" by eliminating the early introductory rate since even when it re-prices to a higher rate, this still offers a better rate than a flat market rate on the front end.

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21-Day Statement Mailing Proposal

Candidly, an institution like BancorpSouth, provided it has adequate lead time to invoke a change such as the 21-day statement rendering rule, regrettably at expense, can and will do so. We also support the concept of regulation that has substance and meaning of benefit to both the industry and our customers such as "specific rule/bright line" approaches like the 21 day rule. We feel compelled to comment, however, on how this needs to be a Reg Z requirement, not a UDAP requirement. If our bank or another bank was found to be unscrupulous, mischievous, or purposely avoiding the 21-day Reg Z rule, a case by case examination under UDAP may be appropriate. Use of UDAP is not appropriate, however, to make something as direct and bright line as the specific number of days to send a statement. To do otherwise is going to require BancorpSouth to spend extra resources to "prove mailing" almost every month, document its mailing processes, renegotiate vendor mailings, "prove up" our statement cycling, and add employees to substantiate our "did we put it in the mail" regimen.

We recognize the rule provides that we should simply have processes in place for such, but with the threat of UDAP, we believe we will have no choice but to institute all of the above, and perhaps then some, to avoid the "we didn't get a statement timely" argument. Regardless of how unnecessary and unfounded of merit such a claim would be, our processes, forms, due diligence documentation, etc., would *still* beg the question of why? Thus, make it a Reg Z specific requirement and no more; and certainly not under UDAP.

Risk-Based Pricing

To BancorpSouth generally, and especially with our credit card portfolio being mostly unsecured open-end consumer credit, risk-based pricing is critical. This issue is of concern not only on front end underwriting, but in managing the ongoing customer relationship. While front end risk-based pricing issues appear to exist with the proposal, the greatest concern to BancorpSouth is with the initial underwriting of a credit card product, where we assign the product type/pricing and apply other features such as limits commensurate with one's credit history, only to have the customer's credit change down the road for the worse. This happens every day.

Currently when this happens, BancorpSouth considers the option of moving the customer to a different product which is priced at a higher rate and/or lowering credit limits in lieu of actually canceling the card and eliminating the customer's access to credit. Under the proposal, that appears not only problematic, but likewise subject to getting tainted with an "unfair" label. We therefore face what we consider to be a negative option of having to cancel our customer's access to credit under such circumstances as opposed to legitimately adjusting the relationship.

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Under UDAP's scrutiny, to do otherwise would raise portfolio delinquency concerns and the possibility of safety and soundness concerns for our portfolio. A prohibition on risk-based pricing would force us to consider increasing rates for all of our credit card customers.

The alternatives therefore seem to be, as is the solution to other aspects, for enhanced Reg Z disclosures in this regard. Otherwise, for our customers with better credit histories, lower priced cards and/or greater limits will no longer be viable options. And, to adjust for the potential loss of income occasioned thereby, a reevaluation of the entire portfolio, putting all segments of our customer base at risk, looms as an unfortunate, unintended consequential choice for us.

5:00 P.M. Payment Receipt Proposal

If BancorpSouth makes only a morning mail run to our post office that is designated for receipt of making credit card payments, BancorpSouth would apparently be committing multiple fair and deceptive trade practices or otherwise be in violation of the proposed rule because it would not be crediting a payment that was received throughout that same day up until 5:00 p.m. at the very same post office. To avoid this, BancorpSouth would have to station someone at the post office to retrieve the mail throughout the day and figure a way to do a "last mail call" at 4:59 p.m.

Then comes the real quandary because cut off times are supposed to be designed to enable depositor institutions to have sufficient time for payment processing. Something that is basically impractical is therefore being proposed. We will simply have an undisclosed "grace period" day in effect added because of this arbitrary date and time.

We therefore strongly oppose the Board's establishment of 5:00 p.m., or for that matter, any particular cut off time for receipt of mailed payments and respectfully request the Board to delete this proposal. A rule is already provided in Reg Z, Section 226.10. Creditors may specify reasonable requirements that enable consumers to make conforming payments, thus appropriately leaving to creditors the determination based on their specific procedures.

BancorpSouth uses a lockbox concept, therein we would have to engage the services of those personnel to "figure out" and process in a totally different manner than that currently implemented by specific detailed procedures. Banks like BancorpSouth need adequate time to utilize the system capability of processing payments. Simply put, BancorpSouth cannot open, process, and credit a payment on the day it is received unless it is received by a time certain that leaves enough time to complete the processing by the end of that banking day. For BancorpSouth, that is in the morning, or at best, midday.

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The Board does not provide a justification in terms of a benefit to consumers why the 5:00 p.m. cutoff is a preferable cutoff time as compared to an earlier cutoff time set reasonably by the financial institution itself. If this proposal stays, banks will have no choice but to process payments in the following days, but find a means to arbitrarily grant additional grace days because of the impracticability of crediting payments that were placed in the late mail run at the post office, even if at 4:59 p.m.

Conclusion

It appears that certain practices warrant UDAP scrutiny, if tailor-made and specific to the major concerns under scrutiny, i.e., double cycle billing. However, remaining concerns need a balancing act: first, a retreat from UDAP, then utilization of revisions to Reg Z, as the solution.

Sincerely yours,

Kathi Carter

Kathi Carter
Senior Vice President

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